



**TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
Regular Session AGENDA**

Date: MARCH 8, 2004 - 7:30 p.m. – Roll Call

Motion to accept minutes of meetings as written.

PRELIMINARY MEETINGS:

1. **ELLA MAE HARRIS (#04-12) (P.B. # 03-25)** Request for:
 LOT#1: 62,777 ft. Minimum Lot Area **LOT #2:** 57,666 ft. Minimum Lot Area
 35 Ft. Front Yard Setback 19.4 ft. Rear Yard Setback
 6% Developmental Coverage 57.4 ft. Frontage
 All at 62 Riley Road in an R-3 Zone (67-4-1.2)
2. **EUGENE HECHT (ECONO TOWING) (#04-13)** Request for One (1) additional free-standing sign - 48-18-H-(1)(A)(1) at 161 Windsor Highway in a C Zone (9-1-25.4)
3. **EDWARD BISHOP (04-14)** Request for 3 ft. side yard and; 5 ft rear yard setback for proposed in-ground swimming pool at 2305 Pioneer Trail in an R-3 Zone (77-9-3)

PUBLIC HEARINGS:

4. **MIKE CASSISI (for Vincent Lawrence) (03-63)** Request for:
 7,353 ft. Minimum Lot Area (R-4 C7) and;
 10 ft. Rear Yard Setback (R-4 G7)
 For proposed house on Vascello Road in an R-4 Zone (57-1-65.21)
5. **EDWARD NIXON (04-05)** Request for:
 4 ft. Rear Yard Setback - for existing detached 8'X12' shed (48-13-A-1-B)and;
 6 ft. Front Yard Setback – for existing 12' X 12' front deck (R-4 bulk tables Use 7-E) and;
 1.2 ft Side Yard Setback – for existing detached 8' X 8' well house (48-14-A-1-B)
 All at 20 Hill View Drive in an R-4 Zone (58-3-2)
6. **CLASSIC HOME BUILDERS (04-02)** Request for 23 ft. Minimum Lot Width for proposed single family home (Use: R-1 5-D) at 244 Bull Road in an R-1 Zone (56-1-6)
7. **GARY & THERESE LAMICA (04-06)** Request for:
 9 ft. Side Yard Setback and;
 2 ft. Rear Yard Setback (48-14, A(1b) for existing shed and;
 Interpretation for Single-Family Home with two kitchens in Single-Family Zone
 All at 1 Buttermilk Drive in a CL-1 Zone (78-1-3)
8. **MOSHHIL INC. (04-09)** Request for:
 3,902 sq. ft. Minimum Lot Area and; 5 ft. Side Yard Setback and;
 25 ft. Minimum Lot Width and; 10.4 ft. Rear Yard Setback and;
 35.6 ft. Front Yard Setback and; 4% Floor Area Ratio and;
 4 Spaces – Minimum Parking Required
 For Retail Building with Caretaker's Apartment. All at 1144 Route 94 in an NC Zone (67-4-21)
9. **CENTRAL HUDSON G&E (04-04)** Request for Interpretation and/or Variance for expansion of nonconforming use, exceeding 30% (48-24 B 3) for expansion of Substation at Union Avenue in an R-4 Zone (12-1-48) (PB #03-12)

TOWN OF NEW WINDSOR
ZONING BOARD OF APPEALS
MARCH 8, 2004

MEMBERS PRESENT: MICHAEL KANE, CHAIRMAN
MICHAEL REIS
STEPHEN RIVERA
JOSEPH MINUTA

ALSO PRESENT: MICHAEL BABCOCK
BUILDING INSPECTOR

ANDREW KRIEGER, ESQ.
ZONING BOARD ATTORNEY

MYRA MASON
ZONING BOARD SECRETARY

ABSENT: LEN MCDONALD

REGULAR MEETING

MR. KANE: I'd like to call the March 8, 2004 meeting
of the New Windsor Zoning Board to order.

MINUTES OF FEBRUARY 9, 2004

MR. KANE: Motion to accept the minutes of February 9?

MR. RIVERA: So moved.

MR. MINUTA: Second it.

ROLL CALL

March 8, 2004

2

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

PRELIMINARY MEETINGS:

ELLA MAE HARRIS #04-12

MR. KANE: Request for lot #1, 62,777 ft. minimum lot area, 35 ft. front yard setback, 6% developmental coverage. Lot #2, 57,666 ft. minimum lot area, 19.4 ft. rear yard setback, 57.4 ft. frontage.

Mr. Michael Harris appeared before the board for this proposal.

MR. HARRIS: I'm Michael Harris, son of Ella Mae Harris. I signed to represent here at this hearing. We were requesting the variance, this is basically two dwellings that have been on the same lot, I think the first one has been there for about 44 years, the second one for about 20 years. She had sought to have a subdivision sometime ago but according to the zoning regulations at that time she had to wait for central water and sewer that came in maybe about 2, 2 1/2 years ago to our particular area but by the time she made the process, the zoning regulations had changed expanding the total amount of square footage to have for each lot which is why she's requesting a variance in order to allow her to subdivide it granting of the subdivision wouldn't alter or change the neighborhood in any respect in that both dwellings are there, wouldn't be building anything new or bringing anything else new to the neighborhood, simply divide what's there presently.

MR. KANE: The second home approximately 20 years?

MR. HARRIS: Correct.

MR. KANE: That would be lot number 2 in the application?

MR. HARRIS: Correct.

MR. KANE: Ever have a building permit?

MR. HARRIS: Yes, I was told both the first one was built back in 1960 and the second one I'm told.

MR. KANE: That one predates zoning, so that's fine.

MR. HARRIS: The other one I'm told was built in 1984.

MR. KANE: Do we have any records on that, Mike?

MR. BABCOCK: Don't have the file with me tonight, Mr. Chairman, this was referred from the planning board so I brought the planning board file only. I can get that if you'd like.

MR. KANE: We'll bring it for the public hearing, you don't have to get it right now.

MR. BABCOCK: Okay.

MR. KANE: Both homes now are on town water?

MR. HARRIS: Correct.

MR. KANE: Town sewer?

MR. HARRIS: Correct.

MR. KANE: Separate electrical?

MR. HARRIS: Yes.

MR. KANE: Obviously tearing down one of the buildings so that it conforms would be a financial hardship?

MR. HARRIS: Yes.

MR. KANE: Standard questions. Have there been cutting down of any trees or substantial shrubbery in the

building of the second home?

MR. HARRIS: No.

MR. KANE: First one predates any complaints formally or informally about the second home on lot number 2?

MR. HARRIS: None.

MR. KANE: Joe, do you have any questions?

MR. MINUTA: I do not.

MR. KANE: Both homes are similar in nature and size to other homes in that particular neighborhood?

MR. HARRIS: Yes.

MR. RIVERA: No questions.

MR. MINUTA: Accept a motion?

MR. KANE: Yes. Michael, for the public hearing, if you can bring that paperwork.

MR. BABCOCK: Yes, I will.

MR. KANE: Yes, I'll accept a motion.

MR. MINUTA: Make a motion that we ask Ella Mae Harris to appear for a public hearing for lot number 1 and lot number 2 in its entirety as listed for number 4-12, planning board number 3-25, we request for minimum lot areas, front yard setbacks and developmental coverage, frontage, minimum lot area and rear yard setback.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

MR. KANE: So you understand what we have done everything by law with zoning has to be done in a public hearing. The Town of New Windsor does it with a preliminary to start off so we can get the proper information from you or whoever is going to be coming up next and you have provided pictures, you'll go through the same thing during the public hearing, same questions at that point in time, just follow the directions this young lady has for you.

MR. HARRIS: Thank you.

MR. KRIEGER: Do you have a proxy for them?

MS. MASON: Yes, we do you.

EUGENE HECHT (ECONO TOWING) #04-13

Mr. Eugene Hecht appeared before the board for this proposal.

MR. KANE: Request for one additional free-standing sign, 48-18-H(1)(A)(1) at 161 Windsor Highway in a C zone.

MR. KANE: Tell us what you want to do.

MR. HECHT: We have an office building, Eugene Hecht, H-E-C-H-T.

MR. KANE: Okay, tell us what you want to do.

MR. HECHT: I was here once before to get, I just bought the property and we had to get the sign there made legal from 1960 which we did, at that time, it was only three names on the sign, we kept the exact same size. Now we have four tenants in the building and we need one additional sign so we're proposing just one sign two pillars and a 4 X 4 sign, that's it, nothing else. It's surrounded by rocks and shrubs on both sides.

MR. KANE: Added to the existing sign or is it going to be a separate?

MR. HECHT: No, state says we can't move any closer to the road so it will be separate and freestanding.

MR. REIS: Where is, where would this be again in relation to your existing sign?

MR. HECHT: On the other side of the other driveway, this is the driveway coming in, so it would be on the other side. This is where we are now, here's the edge of the pavement, that's our existing sign and that's the proposed right there.

MR. KANE: Any illumination on the sign?

MR. HECHT: No.

MR. KANE: How high off the ground is this going?

MR. HECHT: Pole's going to be set in the ground only 8 feet, sign's only 4 feet by 4 feet.

MR. KANE: For the public hearing I'm requesting that you bring in some pictures showing the view from 32 heading in both directions and want to make sure that there's no obstruction of vision on that.

MR. HECHT: Yes.

MR. KANE: Michael, any questions? Anything further at this point?

MR. REIS: No.

MR. MINUTA: I'm fine.

MR. RIVERA: No questions.

MR. REIS: Accept a motion?

MR. KANE: Yes, I will.

MR. REIS: I'll make a motion that we set up Mr. Hecht for his requested variance for a freestanding sign at 161 Windsor Highway.

MR. MINUTA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE

March 8, 2004

9

MR. KANE
MR. REIS

AYE
AYE

EDWARD BISHOP (04-14)

MR. KANE: Request for 3 ft. side yard and 5 ft. rear yard setback for proposed inground swimming pool at 2305 Pioneer Trail in an R-3 zone.

Mr. Edward Bishop appeared before the board for this proposal.

MR. BISHOP: Good evening, Edward Bishop residing at 2305 Pioneer Trail. Rear yard has approximately 30 foot of depth from the back wall of the home, property width is about 100 foot wide, I'd like to put an inground pool 16 x 37, if I set that in the center, it's going to use up most of the usable space. I'd like to shift the pool to the far right corner of the property still allowing for travel to go around the pool but then also to have an opportunity to put a patio and still have some grass.

MR. KANE: Would the inground pool be part of developmental coverage?

MR. BABCOCK: Yes, if the applicant's set up for a public hearing, Mr. Chairman, I will do a calculation of that and have the application modified if it's a requirement.

MR. KANE: Okay, basically what it is is that you're only allowed to develop your property so much, okay, so certain percentage of the property is allowed to be developed and built on, so we want to make sure you fall within those realms, if not, put that as part of application and that would also--would a cement patio be included in this?

MR. BABCOCK: Yes.

MR. KANE: So if you want to put a cement patio that would also be part of it, so that would be a question

later looking at your property.

MR. BISHOP: Are pavers considered?

MR. BABCOCK: Yes.

MR. MINUTA: You're looking at impermeable coverage.

MR. BISHOP: Okay.

MR. BABCOCK: Right, if you'd like to mark a plan up and get it to me where the brick pavers are, this way you get all the variances you need, you won't have any problem if you go to sell or refinance.

MR. KANE: And he has a year to act on the variances.

MR. BABCOCK: Yes.

MR. KANE: So it doesn't require you to build the patio right away, you have time to do that or you could request an extension on that time to build it, if you want to, this way, you cover that since your property's a little unique in size as far as the depth going back. Okay?

MR. KRIEGER: But you understand if the variance is granted, once you get the variance, that will limit the size of the patio to what you've asked for.

MR. BISHOP: Yes.

MR. KRIEGER: You won't be able to come back in a year and say oh gee, I decided to make it a little bit bigger.

MR. KANE: Just trying to cover every base for your area so you don't have to come back here and repeat the whole process, not that we're not fun guys. The requested swimming pool is not, is not an oversized

swimming pool in your opinion?

MR. BISHOP: No, it's not, there are larger pools out there.

MR. KANE: Other pools similar in nature and size in your neighborhood?

MR. BISHOP: Yes, actually, my next door neighbor.

MR. KANE: Will you be cutting down any trees or substantial shrubbery in the building of the pool?

MR. BISHOP: I'd like to take down three trees.

MR. KANE: Nothing substantial though?

MR. BISHOP: No.

MR. REIS: What's behind you?

MR. BISHOP: Behind me is the Town Park of New Windsor.

MR. BABCOCK: We're going to be putting in pools out there this spring.

MR. BISHOP: I know, I see you guys out there.

MR. KANE: You said 16 x 36?

MR. BISHOP: Yes.

MR. KANE: And is that the actual pool size or are you counting the cement walk around on that?

MR. BISHOP: That's actual pool size.

MR. KANE: So you're going to have--

MR. BISHOP: A three foot walk around.

MR. KANE: Do we need to take that in consideration as long as he's here, are we measuring to the pool or end of the cement on the walk around?

MR. BABCOCK: The pool.

MR. KANE: Just want to make sure we cover.

MR. KRIEGER: Cement walk around is relevant as to developmental coverage but not as to setbacks.

MR. BABCOCK: That's correct.

MR. KANE: And your back yard is fenced in?

MR. BISHOP: It will be.

MR. KANE: You have steps coming off the back of the home?

MR. BISHOP: Yes.

MR. KANE: And then you realize that you'll probably have to put another fence up around the inground pool, correct?

MR. BABCOCK: Well, what he will have to have, Mr. Chairman, is one or the other, the door will have to have a self-closing, self-latching device on it and the windows will have to all have latches which they come with.

MR. KANE: Normally what it is is that even if your back yard is fenced in, if you don't have some kind of obstruction so the little guy can't get from your back door or your deck to the pool then you have to fence in general that pool area. Okay?

MR. BISHOP: I was told to have automatic, I should say

the self-closing, self-latching.

MR. BABCOCK: There's also an alarm, there's choices you can do that rather than the self-closing, self-latching, you can have an alarm system.

MR. BISHOP: My alarm system does have an indicator so it alerts.

MR. BABCOCK: This would have to have separate and individual for the door, if that door opens, it would go off.

MR. KRIEGER: It's an either/or requirement.

MR. BABCOCK: Yes, I'm sure once he gets through the zoning board process, he will be back in touch with my office, they'll give him that, we can do that earlier if you'd like to start thinking about that.

MR. BISHOP: Okay.

MR. KANE: If you're looking at alarms for the pools, don't get the ones that float on the water, make sure they go deep into the water for a splash.

MR. BISHOP: Yes.

MR. KANE: Any other questions, gentlemen?

MR. REIS: Just a point of reference, Mr. Chairman suggested that you lay out a patio, you might want to make it even larger than you would anticipate, you can always make it smaller.

MR. KANE: If you can, if you present that to Michael, he can figure out what the developmental coverage is, he will know if you have a percentage or you're pushing the boundaries.

MR. BISHOP: I've made extra plans, how do I get that to you?

MR. BABCOCK: To the building department.

MR. KANE: Just show them, doesn't mean you're going for it right away. Okay, gentlemen?

MR. RIVERA: Have you gone over any, are you going over any easements, create any water hazards?

MR. BISHOP: No, not at all.

MR. MINUTA: Accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: I move that we refer Mr. Bishop to a public hearing for requested three foot side yard and five foot rear yard setback for proposed inground swimming pool at 2305 Pioneer Trail.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

PUBLIC HEARINGS:

MIKE CASSISI (FOR VINCENT LAWRENCE) #03-63

MR. KANE: Request for 7,353 ft. minimum lot area and 10 ft. rear yard setback for proposed house on Vascello Road in an R-4 zone.

Mr. Michael Cassisi, Mr. Mickey Cassisi and Mr. Vincent Lawrence appeared before the board.

MR. KANE: I will ask at this time if there's anybody in the audience that's here for this particular meeting? Joe, do you want to take this? Do you have one? Just going to ask you to sign your name, address so we have it for the record. When we open it up to the public portion of the hearing, I'm going to ask you to please state your name for the record and then say what you have to say, just try not to be repetitive. Thank you. Okay, gentlemen, it's your show.

MR. LAWRENCE: I'm Vincent Lawrence, I'm the current owner of the lot at Vascello Road that's in question. This lot was actually developed by my father, he was a New York City fireman and a broker and he subdivided this piece of land from his main house back somewhere in the '80s, I don't have the exact number. I brought together a team here of local people, myself, Mickey and Michael Cassisi who are sons of Dominick Cassisi, who's a neighbor right next to this lot directly across from the lot and they would be involved and the builders for this particular home. And I'd like to point out that being in such close proximity with their parents and being in the local community, that this team has a vested interest in maintaining the quality of this community. I'm currently a resident of Denver, Colorado but I have been involved in real estate development both in Boulder and in Denver, my father developed an area called Twin Ponds, which is on the Cornwall side of Beaver Dam Lake and I was involved in

the development of that piece of property after his death. The home on this lot would be a benefit to the community. We asked ask for reasonable accommodation on this lot for the variances that are asked and that is the home to be built will be similar to existing homes but a modern structure built and it will of course shall be built to current building codes and it will be a very attractive home. The pictures show that this is a corner lot and it does not intrude on neighbors, it has a minimal impact on the local community. If you look at the pictures, you can see that the other homes in the area are quite a distance away, average hundred feet to the, to any home that's in that block there on the corner. It will be an attractive home and it will be a positive factor for the overall community. The benefit to the community will be the additional tax revenues and in a time of budget deficit probably add a measurable amount of tax receipts, somewhere around 4,000. It will help improve property values, an attractive home tends to raise the value of adjacent homes and construction provides jobs and income for local residents. I know everyone has a right to their objections, but this request will result in a home, not a business, not an eyesore and it's in the community of similar homes. It's unreasonable to expect land will be vacant forever for other people and that's our presentation.

MR. KANE: What size home is it that you intend on building?

MR. LAWRENCE: What size?

MR. MICKEY CASSISI: Maximum size will be 48 x 26 or 28, I mean.

MR. MICHAEL CASSISI: Town sewer and well.

MR. REIS: How many bedroom home is that?

MR. MICKEY CASSISI: Four.

MR. MINUTA: Is there enough distance from the proposed well from other wells and other sources?

MR. MICKEY CASSISI: That hasn't been engineered yet but I'm sure it can be worked out.

MR. REIS: You don't have an existing plot plan?

MR. MICKEY CASSISI: There is a plot plan that was submitted.

MR. MINUTA: But the well's not located?

MR. MICKEY CASSISI: No, the well's not located on that.

MR. MICHAEL CASSISI: As Mr. Lawrence pointed out, the nearest home is 100 feet away so there shouldn't be any problem locating the well.

MR. KANE: Let me ask one important question, what has changed on that piece of property and your design that wasn't there when you applied for the variance in 2001?

MR. LAWRENCE: Now I don't know that because at that time, that variance was requested by a different builder who had a contract on the land and I was not directly involved in the layout and I can't tell you what his specific request was.

MR. KANE: Do you have any plans as far as the layout of the building for that particular property what you're going to do?

MR. MICKEY CASSISI: Yes, I do. This is not the exact house but floor plan is going to be kind of the same, there won't be any porch cause there's not enough room. Anybody else like a copy? Like I be said before,

that's the maximum, I mean, I can shrink it down if I had to.

MR. BABCOCK: Mr. Chairman, with relation to the well, the applicant before these gentlemen did locate a well, had his engineer locate a well and I have a plan here showing that so a well will work on this property.

MR. KANE: Will work without an adverse affect to other wells in the area that we know of?

MR. BABCOCK: I don't know that but its separation distance from other wells have been met, this engineer's saying that.

MR. MINUTA: With regard to the subject property, could you give the history on its subdivision, its original subdivision? As I recall from our preliminary hearing, this was originally subdivided, what the year was I don't recall, but from my interpretation of what I heard last time basically this parcel was subdivided off and never used to build on.

MR. LAWRENCE: That's correct there, it was subdivided by my father and I think it was in mid '70s but I'm not exactly sure of that day, I'd have to go back in the records.

MR. BABCOCK: I got some information here on the deed which was recorded in 12/15/77.

MR. KANE: Was that a buildable lot at that time?

MR. LAWRENCE: He discussed that in the preliminary and I think it was determined that it was as I recall.

MR. BABCOCK: I would have to do more research on it but I don't think that the, I don't think if it went through in '77 I would assume it went through the proper channels to become a lot and if it did then it

would, either had to get a variance at that time if it didn't meet the zoning or to legally be created.

MR. MINUTA: The other, I have one more question regarding the subdivision, was that subdivided as a development or in other words subdivided for sale or subdivided as a right of ownership where you actually your father I assume actually lived on the property?

MR. LAWRENCE: My father lived on the property at that time and I don't know the specifics about the rest of it.

MR. MINUTA: Thank you.

MR. KANE: Okay, I think it's important at this time to open it up to the public at this point, seeing we have some people that have something to say, I will listen to what they say. Again, I ask you not to be repetitive and state your name when you start. We'll start right over here with this gentleman right over here.

MR. SMITH: My name is Everett Smith, I live at 25 Vascello Road, directly across the street from the lot, it may be 100 feet but I'm not so sure of that. I would like to correct one thing. The Cassis that are here tonight, all the gentlemen that are here tonight do not live locally as was presented before. The family does and they do live next door to the lot. I live across the street from the lot, their parents live next door. I would hope that the board does not give any allowances to existing codes for this piece of property. First of all, we have had water problems at my house in the past. Secondly, I believe that if you saw this property, you would see that a large portion of it is a hole that leads into a culvert, they have to place the house over to the left-hand side of the property in order to fit it. They do not have enough room on the property for the house, therefore, have to

ask for a variance because there's not enough property in the rear of it. I believe that if the house is built on that property, I'm going to suffer a depreciation of the value of my home and I hope that you give this serious consideration as has been done in the past.

MR. KANE: You mentioned some water, previous water problems?

MR. SMITH: I have had shortage of water occasionally at my house, yes.

MR. KANE: Any type of run-off problems or anything from that particular area to your property?

MR. SMITH: No, there are occasional flooding problems at the bottom of that, it's at the bottom of a hill, there's a culvert that goes under the road, leads onto it and through that property, there have been flooding problems on both sides of that culvert in the past.

MR. KRIEGER: Culvert is for the purpose of drainage?

MR. SMITH: No, there's a stream that goes, there's a stream, I don't know the name of it, I've lived there all my life, what's the name of that thing.

MR. MICKEY CASSISI: It goes into the lake which is a tributary that goes under Vascello Road, goes through that property, not through it, on the end of it.

MR. SMITH: Sometimes it's dry, sometimes it's flooded.

MR. KANE: And so you're opposed to this application?

MR. SMITH: I'm opposed, yes.

MR. SARDULO: My name is Wayne Sardulo, I live at 78 Beaver Brook Road, I'm about, my property is roughly

50, maybe 60 feet behind this property we're mentioning. My main concern is the water table. During the '80s, when we had a drought, the water table in my yard went down cause I sound it quite often, went down 11 feet and came back. Now it's down 30 feet from the houses being built around, actually, it's more people that they were summer homes and now they're year round homes and that's what I believe is part of it. I believe I disapprove on that alone I disapprove and I think they should save wells for legal sized pieces of property. Could you tell me what the legal size is right now?

MR. KANE: Not off the top of my head.

MR. SARDULO: Is it at least an acre?

MR. BABCOCK: 21,793.

MR. KANE: He's requesting about a third.

MR. BABCOCK: It's about a half acre.

MR. SARDULO: Just under a half acre, so, okay, the business about the subdivision, in 19, I subdivided in 1978, the Town Board told me that there was no and I have it here, they showed that it was a legal sized piece of property and if you say it's done in '77, that's okay, but the Town told me that there was they thought came up with some, was anybody here in '77 on the board? They told me they thought they were going to have problems there but they would never allow anybody to build on it, that it was being subdivided on speculation, that water and sewers were coming in, they knew sewers were coming in and they were speculating of making these small pieces of property on speculation, that water was going to come in and the Town Board told me because I had five acres I could have built a whole, they told me they would not allow me and they would not allow these pieces of small property to build on, so I

subdivided mine accordingly and they said it was totally, if they were smaller than the building lot in '77 was 43,560 was the building lot in '77?

MR. MICKEY CASSISI: No, it was a third of an acre.

MR. SARDULO: It's 4, it's right here on the specs.

MR. BABCOCK: The sizes of the lots over the years have changed and the one way that they were regulated in size is whether you had water and sewer and possibly when they subdivided this property, there wasn't sewer there so probably when they did do the subdivision, it was one acre cause regardless of water and sewer, if you didn't have it now, the 21,790, the credit there is because there's a sewer line there and if they had Town water there, they would meet the required size of the lot.

MR. MINUTA: So if this had Town water, 7,000 square foot lot would be fine?

MR. BABCOCK: Yes, they would have to reduce the size of the house or ask for setback variances based on what they're asking for tonight but as far as lot area, they would not have to be here if they had Town water.

MR. REIS: What was determined by that?

MR. KANE: Just looking at the subdivision.

MR. SARDULO: And it also changed in 1980 and '84 with smaller lots being subdivided out and I don't know how they did that but it happened and that's on both of these updates I'd say.

MR. KANE: We have a lot of parcels in New Windsor that we don't know how it got that way but trying to fix them now. So you're against this?

MR. SARDULO: I'm against it.

MR. KANE: You've had water problems in the past and in a drought situation?

MR. SARDULO: Yes, it goes down and I'm not the only one, other neighbors.

MR. KANE: Is that all you have to say at this point?

MR. SARDULO: Yes, I guess so.

MR. KANE: Thank you.

MS. LOVANO: I'm Judith Lovano, L-O-V-A-N-O, and I live at 66 Beaver Brook Road, which is across the brook from the property in question. Aside from the obvious misgivings that I have about having such a small property have a house built on it, I'm concerned about their back deck or back yard being really close to our property, my property and detracting from the value of our property. I'm also concerned about the water table problems in the whole area and I'm sure yet one more house would contribute to that obviously.

MR. KANE: You have a well on your property?

MS. LOVANO: Yes. The other very important issue for me is the whole back of our property is surrounded by Beaver Brook that runs into Beaver Dam Lake and the back, the back I guess 25 to 30 percent of our property is efficiently a flood zone so this property that they're proposing to build a house on part of the property as I understand it is an easement for drainage and there's a lot of drainage from up on that hill through a big gully that they described that comes directly down into Beaver Brook which then floods onto the back of my property. And so any change in drainage situation is going to definitely affect how far my back yard floods, how much of it is flooded. So those are

three concerns that I have and I'm against you doing this.

MR. KANE: Do you know of any, I don't have that tax map that shows any easements, do you know of any easements on that property?

MR. BABCOCK: Yes, there's a sewer easement.

MR. KANE: Can I see that?

MR. BABCOCK: Sure.

MR. KANE: Preliminary is just to give us an idea of what you want to do. This is the official hearing. Certain towns you go into, you go in cold, so you walk right in, you tell them what you want to do, they decide then and there. If you don't have the right information, basically, tough, that's the way they work. So I think with preliminary hearings just because it was brought up we're going to ask the same questions again.

MR. BABCOCK: That's the sewer line easement, they have a 15 foot construction easement on this side and these are the pipes the people are talking about.

MR. KANE: Is this the proposed house or we don't have anything?

MR. BABCOCK: Yes, we have, this is the earlier one, typically, it's the same thing basically.

MR. KRIEGER: Probably want to show that to the other members.

MR. BABCOCK: The area request is the same as last time.

MR. KANE: Actually, the area request is a little bit

more.

MR. BABCOCK: Well, we took the net area and took the sewer easement out of the square footage but actually, they have the land, they own the land.

MR. KRIEGER: For the record, what's the 7,353 foot minimum lot area, is that the variance amount that they're requesting or is that the actual?

MR. BABCOCK: That's what they're short including the easement.

MR. KRIEGER: Okay, what's the requirement?

MR. BABCOCK: 21,790 and their lot area's actually 15,318.

MR. KANE: Okay, that answers that question, ma'am.

MS. LOVANO: So that's all I have to say and I'm against your granting them the variance on a number of different bases. Thank you.

MR. KANE: Sir?

MR. CRUZ: My name is Joseph Cruz, I live at 74 Lakeside Drive and my property runs matter of fact right behind that property, it's a piece of property that goes from Schiavone Road all the way to Lakeside Drive and it's, they would be actually in my back yard, so anybody that would live there would be, end up using my property as their back yard because it goes right to the brook and comes down. And as far as water is concerned, every time I get more than three people visiting my house, I run out of water so it is a problem.

MR. KANE: How long have you lived there?

MR. CRUZ: Three and a half years, I know it would be a positive thing to have something built there, but it just has to have enough property to cover it.

MR. REIS: Your home is quite a bit on an elevation, is quite a bit higher than proposed home, correct?

MR. CRUZ: No, mine's actually at the bottom and I get all the water so when it rains, the water just comes all around my house right to the brook. That's all, thank you.

MR. KANE: Thank you very much, sir. Anybody else for this particular hearing?

MR. MICKEY CASSISI: I can add something when you get through.

MR. KANE: You're not part of the public. Okay, at this point, I'll close the public portion of the hearing, we'll bring it back to the board and the applicants. Myra, how many notices did we mail out?

MS. MASON: On the 16th of February, 33 envelopes containing the notice of public hearing were mailed out and I had no responses.

MR. KANE: Thank you. Sir?

MR. MICHAEL CASSISI: I guess the interesting piece that my parents live as close if not closer than anyone, there's six children in our family, 12 grandchildren, on Sundays, there's at least 25 people at our house and never have we ever run out of water. Going back as a child, the Smith family has always a had water problems, it's been kind of the known, so again, our well sits or my parents' well I should say sits no more than 25 feet from Schiavone Drive, which is at the, staring at the lot on Vascello Road, the right-hand side, and never, I'll ask Mickey if he

remembered, but never have we run out of water in any case.

MR. KANE: Okay, so it's your opinion that if this was allowed and a new well was put in that it wouldn't have any adverse affect on the other wells in the area?

MR. MICHAEL CASSISI: I think you'd have to be an engineer to check. There's obviously a stream behind it, behind the property which probably adds to the water system within that area.

MR. KANE: Okay, next obvious question is cutting down substantial trees and shrubbery to build this particular building?

MR. MICKEY CASSISI: You have to cut down some, I guess.

MR. LAWRENCE: There's no particular, as you can see from these pictures, there's no particularly large trees, they're mostly short small trees, minor diameter.

MR. KANE: Can you describe the area for the record? Can't get that picture into the record. It's a wooded area?

MR. MICKEY CASSISI: Yeah, small type trees, no more than probably 6 inches, seven inches in diameter. The biggest I'd say and I don't understand how this gentleman here, Mr. Cruz has the property behind that property cause that's where the easement is, the sewer easement, so I didn't understand how it comes into play with his property.

MR. CRUZ: I go all the way to the corner.

MR. MICKEY CASSISI: I can show you a picture of--

MR. MICHAEL CASSISI: I guess the point is is that if anyone would be playing in the back yard would they not be playing in the easement area before they'd be playing on your area?

MR. CRUZ: No, playing on my property before the easement area cause the easement is right off the corner.

MR. MICKEY CASSISI: This is one of the views of the property.

MR. MINUTA: Which property is actually Mr. Cruz's?

MR. KANE: Mr. Cruz, would you step up for a minute to show Joe on the map where your property is?

MR. CRUZ: Yes.

MR. KANE: Thank you.

MR. CRUZ: You're welcome.

MR. KANE: Yes?

MR. LAWRENCE: The senior Cassisis could not be here tonight because of health, but they wrote a letter and I hope you would accept that letter.

MR. KANE: I'm going to read that into the record. "To Whom It May Concern: I'm writing to inform you that my husband and I are unable to attend the zoning board meeting on March 8 due to my husband's health issues. We're spending a couple weeks in Florida as a time to recuperate. My husband, Dominick and I have no objection to the variance on Mr. Lawrence's lot. Signed Camille Cassisi and Dominick Cassisi, Sr.". . .
Okay, questions.

MR. MINUTA: Just one final question. I don't know if

you touched upon this. Is this house being proposed for your own use or for sale?

MR. LAWRENCE: It's for sale.

MR. MINUTA: Thank you.

MR. KANE: Michael?

MR. REIS: I'm just wondering if there's anything that the applicants can express to the neighbors that their particular concerns, how you can respond to those concerns to alleviate the problems?

MR. LAWRENCE: Well, I think on the issue of their property being used for a playground, I believe that's the best we can do is to inform people of their property lines and make sure they adhere to them. Being a wooded area like that, if there are children in both areas, they're going to play on that land and it would be up to the homeowners at that time to make sure that that's not a problem. We can't build a fence there or a concrete fence to keep kids out. But I believe that that won't be a problem, most people are pretty responsible in this type of area normally. On the water issue, that lot, I know my father owned that and he had to re-drill a well on that property, it's a known fact that the water table's a problem. I know he went down quite a ways and I don't, matter of fact, at the time he re-dug that well, there was a pretty high flow and this is quite a while ago. We would make sure that when we selected a site that it was as far away from there as possible to minimize any interaction that there might be. We're closer to that stream and if there's underground water associated with that stream then that would definitely assist the problem and of course we'd speculate on that issue. The drainage area, the drainage issue I think that lot speaks for itself, it's actually higher than the drains, the area that that home is going to be built on, it's not going

to be a problem for that home for drainage and because of its proximity to that stream, we can make sure that the runoff from the house pretty well is directed there so as not to impact on, I think we can take care of that.

MR. MICKEY CASSISI: Yeah, that's the low point.

MR. LAWRENCE: In the building, so I don't believe that will be an issue. We can grade it so that it favors the runoff to the stream.

MR. REIS: Do you have any statistics or anything to substantiate how much fill you've got to bring into the lot?

MR. MICKEY CASSISI: I don't believe there's going to be much fill at all because the garage will be underneath the house on one corner so that drive will come in low, come around, I don't think you need much fill.

MR. KANE: Steve?

MR. RIVERA: You're proposing a four bedroom home, three bedroom, would that suffice?

MR. LAWRENCE: Three bedroom would suffice, we'd be very pleased with an approval for a three bedroom.

MR. MICKEY CASSISI: This plan is 40 x 28, the variance we're going for on the application is 48, so it doesn't have to be 48.

MR. LAWRENCE: If a three bedroom would be palatable, we'd certainly be pleased to accept that.

MR. REIS: Has it been determined where your driveway's going to come in?

MR. MICKEY CASSISI: No, it hasn't been laid out that way, but it would be looking at the lot it would be on the right side.

MR. REIS: From Vascello or Schiavone?

MR. MICKEY CASSISI: Vascello, you'd have to cross over the stream to get from Schiavone and that wouldn't work.

MR. SMITH: If you look at that lot, there's a huge part of that lot that's a big hole leading into that culvert, I don't understand how a driveway can be put on the right-hand side leading without getting into water when it's flooded, when that culvert is operating and you're going to get a driveway going into the bottom of the house?

MR. MICKEY CASSISI: Well, there's the picture of the culvert there probably at maximum now with the spring.

MR. SMITH: Not yet.

MR. KANE: Just so we get it straight, the public portion of the hearing has been closed but I'm going to allow this questioning to go through because I think it's relevant and we'll hold it like that, okay, cause technically, I'm not even sure I can do that.

MR. LAWRENCE: This is the area where the driveway is.

MR. KANE: Can you address it to Mr. Smith.

MR. LAWRENCE: This is the area where the driveway would be coming in, its not over that culvert at all, we're going to be higher than that and we're going to come up into that area.

MR. KANE: Can we bring the conversation to part of the record?

MR. LAWRENCE: I'm sorry.

MR. KANE: Thank you.

MR. LAWRENCE: We were discussing this area of the driveway which is on the, what compass direction is that, I'm not sure?

MR. SMITH: It's difficult in the photograph to see the property and how it slopes down but you can somewhat see it in the photograph, you can see the slope and where they're proposing a driveway is really almost over the culvert because it comes in at an angle from under the road at an angle toward their driveway and then goes around and it will end up in the stream behind the house. But that whole general area to the right-hand side will flood out in the heavy times and as far as the water's concerned, I can't throw that in general but that's many times a major problem, we've had water over the road that that stream gets so high it goes over the road.

MR. MICKEY CASSISI: That's because the culvert pipes get clogged up and it has no place to go but over the road.

MR. SMITH: They have redone them, we have also seen kids in there and everything else. But so they're big now but they still, it still gets flooded out, goes over the road in the heavy times when you've had a season where there's been a lot of snow, a lot of rain, I think it's very flooded.

MR. LAWRENCE: Isn't this higher than your parents' house this area?

MR. MICKEY CASSISI: Yes.

MR. LAWRENCE: Your parents' house doesn't get flooded

out, does it?

MR. MICKEY CASSISI: No.

MR. LAWRENCE: This area is higher than the Cassisi's home and it does not, the home doesn't get flooded so I'm--everybody hear me? The area that we're talking about is higher than the Cassisi land that's across the street and if there was going to be any flooding over the road, it would flood out their place and that does not happen.

MR. MINUTA: Would I be correct in making the assumption that the culvert on the other side would be diverting that water so that the property would not be flooded on the other side of the road?

MR. LAWRENCE: I don't know, if it were a real problem, you would expect that the water would flood and go over the road and then be taken care of anyway since that property is actually higher, the area we're talking about is higher than that stream area.

MR. MINUTA: I can see that if the culvert wasn't, had some sort of blockage that it might overflow. My real issue with this site is there seems to be a lot of issues with this site, contour wise flooding, different water table situations and we're going off of a lot of speculation as to what may be or what may not be and without hard evidence, it's very difficult for me to make a decision on this, to say that we're making the correct decision and assumption for the size of the lot with the house that's being proposed.

MR. LAWRENCE: What kind of engineering would you like to see?

MR. MINUTA: Well, if the water table could be documented somehow that we would understand what type of impact placing this house would have on the area

that may be one, whether something could actually be engineered for that or not.

MR. LAWRENCE: That would be fairly expensive.

MR. MINUTA: I'm unsure of the expense, maybe cost prohibitive for you. And as far as the contour is concerned, is any part of this land, obviously there's a depression in the land and that tends to become wet and overflows as was just stated?

MR. LAWRENCE: Not to my knowledge. When I was a child, youngster on that land, I spent a lot of time on that land, there was no time that that land was ever flooded and I used to spend a lot of time in those woods back there and at no time did I ever see that land covered in water.

MR. KANE: Michael, anything else?

MR. LAWRENCE: I lived on that property from 1955 to '62 and there was never a problem of flooding on that piece of property.

MR. MICHAEL CASSISI: The pictures may be a little bit, would it be an idea for the board to visit that piece of land to take a look at it themselves?

MR. KANE: Well, let me just finish and I'll tell you what I think. Steve, do you have any questions?

MR. RIVERA: No, we're going on speculation a lot, there's no impact studies, you don't have any concrete evidence.

MR. BABCOCK: Mr. Chairman, maybe I can clear up the driveway a little bit.

MR. KANE: That's where I'm going to go, let Steve finish, what I don't see in front of me, I don't see

any drawings as to where the house is going to be placed, just something from the last 2001 sheet, we don't know where the driveway's going to go, we have some water issues that we're not a hundred percent sure of. So there's nothing that's been presented that says this is going to be here, here and here, and that doesn't give us enough information to make an informative decision.

MR. MICKEY CASSISI: This was filed with the preliminary.

MR. KANE: I understand that and what this says is this is a proposed house that's 22 foot from one side, 40 feet from the other and whatever numbers down here, doesn't give me a lot of specifics, there's no driveway on there.

MR. MICKEY CASSISI: Those are the setbacks, I know.

MR. KANE: When they come in we see some detailed plans that we can make an informative decision on, this is a very, very difficult lot, it's been here before, the neighbors have some very good concerns, okay, and I think we need to address that. I think what we have here is also a board that likes to see people be able to use their property and not pay taxes forever on something that they're not getting a return on. My, what I would offer at this point is to actually possibly table the vote at this point and bring you back to another meeting where you can present some more information, I just don't see it right here to make an informed decision and that would be the only thing that I can put out there. If my fellow board members agree with me, I don't see enough that makes me want to change my mind from what I voted on in 2001 and I don't see a set plan and that part bothers me.

MR. LAWRENCE: We would accept that and just that portion to come back and have a--

MR. KANE: Show me what's going to go on with the building exactly and if you can during that time, I mean, I'm not asking you to go out to spend tens of thousands of dollars, you may not be able to recoup but we really do need to take a look at the water issue and get some more information. So I want to see you guys be able to do or anybody use that property and not just pay taxes forever and not be able to do anything but also do have concerns about the water and the neighbors that are in there, they're your neighbors.

MR. MICKEY CASSISI: Well water?

MR. KANE: And the drainage too, there's a big hole in there, there's a stream there, you're going to be directing things a lot that way, so you should, well, water drainage where the home is and driveway's going to go, topography.

MR. MINUTA: Absolutely. Michael, what's the minimum for driveways, is that 10% slope?

MR. BABCOCK: Yeah, that's what I was going to offer about the driveway, maybe what they can do is stake out where you think you're putting it, meet with the highway superintendent, see if he'll approve that location and then you can get something from him and this way, the board will be at ease that you're going to get, because quite honestly, they can't get a building permit unless they get a driveway permit, that's one of the requirements, so they would have to meet with the highway superintendent and satisfy him to be able to go on to that property before they can even get a building permit.

MR. KANE: The other thing with this proposal if you guys want us to table this and we'll take a vote on that, we'll vote on it now if that's agreeable but also at, I'm also at that point going to reopen the public

portion of the hearing so the public can speak and hear your ideas again and go at it, I think it's important, I think it's important for your neighbors that are right there, I think it's important for us to take our time and take a real serious look at this, so that you can develop the property if it's able to be developed. That's where I stand on, that's my feelings on it.

MR. REIS: I've got another question, please. Mike, has it been determined the property's in a flood plain or not?

MR. BABCOCK: No, it has not been, unless these gentleman have done it.

MR. MINUTA: It has not been determined?

MR. BABCOCK: It has not been determined.

MR. REIS: Do you know if it's in a flood plain the property?

MR. LAWRENCE: Well, I know for sure that the other part of that property is not in the flood plain and it's not that much different.

MR. KANE: Again, we need really all the information to make an informed decision. I don't want to sit here and say no but with what I have now, that's the way I feel but I want you guys, I'm really an advocate of being able to use your property.

MR. LAWRENCE: Well, we're willing to go the extra mile and to give you the, to get engineering data that's necessary. I'm not sure about the well, we'll have to see what we can do creative on the well with you but as far as--

MR. KANE: I'm going to reopen the public on that portion and we'll take it up then.

MR. LAWRENCE: Can you give us a date?

MR. KANE: When you feel you're ready to go, you get in touch with Myra, she'll put it on and we'll get the information out.

MR. KRIEGER: I would suggest then the motion would be to table without date.

MR. MINUTA: Mr. Chairman, the next step is possibly help them along engineering data, topography, whatever you can provide us the make an informed decision with hard core facts is what we're looking for at this point.

MR. REIS: Need to motion to table?

MR. KANE: Without a date and what I need you to do then is gather your stuff and submit to Myra that you are ready to come back and she'll get a date and we'll get it back out in the newspaper so everybody is aware of when we're going to do this. Do we have a motion? All you have to do is say--

MR. REIS: I make a motion that we table the public hearing for another public hearing to be determined when the applicant provides the information that we need.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

MR. KANE: Thank you.

EDWARD NIXON #04-05

MR. KANE: Request for 4 ft. rear yard setback for existing detached 8' x 12' shed, 6 ft. front yard setback for existing 12' x 12' front deck and 12. ft. side yard setback for existing detached 8' x 8' well house all at 20 Hill View Drive in an R-4 zone.

Mr. Kenneth Gill appeared before the board for this proposal.

MR. GILL: I'm Kenneth Gill, I have Mr. Nixon's permission to speak on this request. All these items are on the property number 2, he did mention alterations on the, do you have the little sketch?

MR. KANE: Yes, we do.

MR. GILL: Item number 2 on the sketch which is number 1 on the agenda here, he did replace that on the same footprint, same slab.

MR. KANE: How old is that shed at this point?

MR. GILL: The new shed?

MR. KANE: Yes.

MR. KANE: Approximately?

R. NIXON: Fifteen years, maybe.

MR. KANE: Replaced a shed that was there for how many years?

MR. GILL: A hundred years, forever. The second item, item number 2 on the agenda here, front entrance deck, that's number 4 on that little sketch, that also was replaced, augmented footprint, in front of it, it has trees and then the street.

MR. KANE: Without that deck being there, it would be a safety hazard stepping out of your front door?

MR. GILL: Right.

MR. KANE: I have to ask the very obvious questions.

MR. GILL: Number 3, that's the well house that's been there since the dwelling was there, it's an 8 x 8 foot well house, it needs a variance of 1.2 feet.

MR. KANE: That would be number 5?

MR. GILL: That's number 5 on the sketch, yes.

MR. KANE: And obviously, you can't move the well house without a lot of financial hardship. The shed itself in number 2 picture is similar to other sheds in your neighborhood?

MR. GILL: There are photos in there.

MR. KANE: Photos don't make the record, I need an answer.

MR. NIXON: Yes.

MR. KANE: Create any water hazards or runoffs with the building of any of the three?

MR. GILL: No.

MR. NIXON: No.

MR. KANE: Any complaints formally or informally about any of the three?

MR. NIXON: No.

MR. KANE: If there's anybody in the audience for this public hearing? No one? So we'll open and close the public hearing and bring it back to the board.

MR. REIS: Mr. Nixon or Mr. Gill is it?

MR. GILL: I'm Ken Gill, this is Mr. Nixon.

MR. REIS: What brings you to the board? Why are you here? We know you need a variance but what presented?

MR. GILL: I don't hear, I'm sorry.

MR. REIS: What caused you to come here?

MR. GILL: Okay, there are six items that Mr. Nixon was unaware of being in violation and so we had a certified engineer come and inspect and made improvements on the three for which he has building permits, these three didn't comply with the setbacks.

MR. KANE: I think Michael's point is selling, refinancing?

MR. NIXON: No.

MR. KANE: Just trying to clear it up, fix it?

MR. NIXON: Yes.

MR. KANE: Thank you. There's a letter in the file signed by a certified engineer that it's all brought up to current code, electrical inspection was done. Myra, how many mailings did we send out?

MS. MASON: On the 16th of February, I mailed out 25 envelopes and I had no responses.

MR. KANE: Nobody actually showed up. Joe, do you have any questions?

MR. MINUTA: I have no questions, we covered the bases.

MR. RIVERA: None at all. Accept a motion?

MR. KANE: Yes, I will.

MR. RIVERA: That we grant Mr. Edward Nixon his requested variance for the 4 foot rear yard setback for the existing detached 8 x 12 shed and the 6 foot yard setback for the existing 12 x 12 front deck and 1.2 foot side yard setback for the existing detached 8 x 8 well house at 20 Hill View Drive.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

CLASSIC HOME BUILDERS #04-02

Mr. Anthony Fayo appeared before the board for this proposal.

MR. KANE: Request for 23 ft. minimum lot width for proposed single family house at 344 Bull Road in an R-1 zone. I would ask at this point if there's anybody here for this particular hearing? We do, Joe, would you do the honors?

MR. MINUTA: Yes, I will.

MR. KANE: Okay, you can start.

MR. FAYO: I'm looking for a 23 foot variance, I have 102 foot lot width now, I need 125 foot to build a single family residential house, four bedrooms.

MR. REIS: Mr. Chairman, I'd like to recuse myself from voting on this, I have worked with Mr. Fayo and his organization.

MR. FAYO: As you can see in the photos, the lot is actually an old junk yard, dates back to the '50s somewhere and there's a, I'm going to say somewhere between 25 to 35 vehicles on the lot that have been there along with a lot of other thrown debris, tires and stuff, I'd like to get this all honestly cleaned up and put a residential house so I can improve the lot values in the neighborhood.

MR. KANE: Town water?

MR. FAYO: No septic and well.

MR. MINUTA: Will the lot accommodate the septic and the well with the required setbacks?

MR. FAYO: Yes, I already had it engineered, everything

is fine.

MR. MINUTA: Thank you.

MR. KANE: Do you know when this lot was made?

MR. FAYO: That I do not know.

MR. KANE: Mike, do we have any information on that? It's a flag lot, I'm assuming that at the time it was made that it was a buildable lot at that time.

MR. BABCOCK: I do not have anything here that gives me that information.

MR. KANE: Do you have anything? You want it right now?

MR. KRIEGER: Does it meet all the requirements except for the lot width?

MR. BABCOCK: Yes, it does.

MR. KRIEGER: Would it have complied with the lot width under the prior method of measuring or would it still be short?

MR. FAYO: It's 102 foot, Mike.

MR. BABCOCK: The lot width changed in 1986 from 100 to 125, so at that time is when 1986 is what made this lot non-conforming, as far as lot width then they would have had three year time lapse to receive a building permit where they'd have to go through this process.

MR. KRIEGER: Doesn't matter where this is measured, I understand it used to be measured at the road frontage, now measured at the setback line, that wouldn't have any affect here?

MR. BABCOCK: No.

MR. REIS: The minimum requirement was one acre at that time as well.

MR. BABCOCK: That's correct.

MR. REIS: And you have an acre and a half?

MR. BABCOCK: Yes. As you can see going down the road, Mr. Chairman, most of the lots there if you go down the street a ways most are all 100 feet and these right in the road here they're 102, 102 and 102 so apparently, that's how they figured it out, they just divided 6, 8 and 9 almost equal amounts.

MR. KANE: Okay, thanks, Mike. At this point, I will open it up to the public.

MS. HARRINGTON: I'm just here, I'm Wendy Harrington, I'm just sent here by my neighbors because nobody knows what's going on over there, they're worried that it's a number of houses and so it's our concern as Mr. Fayó has already got his easement for Bull Road just a few doors down, I know everybody's concerned, this is a neighborhood of large acreage homes and what we don't want to see is the vulcanization if you will of Bull Road. We're heavily invested, we're all of us with five acre lots and what we're afraid of seeing is the. I mean, you know, God bless the junk yard go away but we all learned to live with it and the thing is what's going to happen, is there suddenly going to be four homes there? These are the things that we need to know.

MR. FAYO: No, only one house there and there's only going to be one house in the other lot that I own, and I do live down the road also and I figure I'd definitely appreciate the value of my residence and all the rest of the neighbors, I thought in order to sell

the current lot that I have the best option was to buy that lot and clean it up.

MR. BABCOCK: Mr. Chairman, just for everybody's knowledge, the current zoning there is 80,000 square feet minimum, so there's no way that he would get more than one house on this lot.

MR. KANE: Do you own any parcels that are on either side or connected to that?

MR. FAYO: I own one lot, two lots down, it's not connected.

MR. KANE: For the record, okay, does that answer your question?

MS. HARRINGTON: Yes, we just want to know.

MR. FAYO: Both lots will be one family, single-family house.

MS. HARRINGTON: And set back from the road.

MR. FAYO: This current lot is, the house will probably be set back roughly 150 feet, the other house about 1,200 feet.

MS. HARRINGTON: Okay.

MR. KANE: Thank you very much. Anybody else for this particular hearing? At this point, I'll close the public hearing portion of the hearing and bring it back to the board. Joe, any questions?

MR. MINUTA: I have none.

MR. REIS: No.

MR. RIVERA: No.

MR. MINUTA: Accept a motion?

MS. MASON: On the 16th of February, we mailed out 7 envelopes with no responses.

MS. HARRINGTON: Seven, what's up with that?

MR. KANE: Taxpayers in the area, it's 500 feet.

MR. MINUTA: There's a required distance from the property so since you have such large lots.

MS. HARRINGTON: I made my case, right?

MR. KANE: I've been here 12 years and I've never heard seven.

MS. HARRINGTON: I called everybody in the neighborhood and nobody had gotten them.

MR. BABCOCK: She's pointing out there's a couple of them that own two or three lots on there so they would get one notice.

MR. KANE: And with that, I'll accept a motion.

MR. MINUTA: Accept a motion?

MR. KANE: Yes.

MR. MINUTA: I put forth a motion that we grant Classic Home Builders the requested 23 foot minimum lot width for proposed single family home located at 244 Bull Road in an R-1 zone.

MR. RIVERA: Second it.

ROLL CALL

March 8, 2004

49

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	ABSTAIN

GARY & THERESE LAMICA #04-06

MR. KANE: Request for 9 ft. side yard setback, 2 ft. rear yard setback for existing shed and interpretation for single family home with two kitchens in single-family zone all at 1 Buttermilk Drive in a CL-1 zone.

Todd Kelson, Esq. appeared before the board for this proposal.

MR. KELSON: Good evening, my name is Todd Kelson, I'm an attorney here in New Windsor. I'm here on behalf of Mr. and Mrs. Lamica tonight, they're seeking some of the variances and one interpretation. You have as part of the package a copy of their survey, the two reliefs sought are a 2 foot and 9 foot area variance for an existing shed that's been on the property in excess of ten years, it's located within a fenced-in pool area. We believe that the shed, that the variance meets all of the criteria under New York State Law in Section 267-B. There won't be any undesirable changes to the neighborhood because the shed has been there many years. He has no adjoining property. There is no other way to obtain the relief they need because of the peculiar configuration of the property. The variances are not substantial as we said they won't have an adverse physical or environmental affect on the neighborhood. These variances will have no impact on the neighborhood. The difficulty is not self-created, Mr. and Mrs. Lamica purchased this property earlier this year. As a condition of the closing, the seller was required to obtain this variance but because of the change in interest rates over the summer, it was decided, and expiring mortgage interest rate, it was decided to close and then Mr. and Mrs. Lamica agreed to seek the variance. It's a very straightforward application. With respect to the request for an interpretation, this home has what has been said to be an additional kitchen. What it is is an area in the

basement that has kitchen cabinets. There's no stove, there's no refrigerator, there's no plumbing. We just wish to have a clarification and go on record as stating there's no intent by the applicants to have two kitchens. This is one single family dwelling we'll say that has possibly two kitchens but there's no application for two dwellings to be located within this building.

MR. KANE: For the record, you're saying that if this application is approved that will always be used as a single family residence?

MR. KELSON: That's correct.

MR. KANE: The shed itself is similar in size and nature to other sheds in that particular area?

MR. KELSON: Yes, it is.

MR. KANE: Any cutting down of trees or substantial shrubbery with the building of it that you know of?

MR. KELSON: No.

MR. KANE: Any complaints formally or informally?

MR. KELSON: No, none.

MR. REIS: As far as you know, these are not on any easements?

MR. KELSON: No.

MR. REIS: If you want to take a look, this is a survey, well, it's hard to read but you can see larger print there's no easements.

MR. KRIEGER: The answer is no?

MR. KELSON: No.

MR. KANE: Very typical.

MR. MINUTA: Existing frame shed, does it have a concrete foundation or simply sitting on--

MR. KELSON: It's on raised plywood.

MR. KANE: What's the use of that particular shed right now?

MR. KELSON: It's just for storage, for this personal use, not any commercial use.

MR. RIVERA: Only one meter going into the house for electrical?

MR. KELSON: No, just one meter.

MR. KRIEGER: It appears that this is on a corner lot, is that correct?

MR. BABCOCK: That's correct.

MR. MINUTA: Were you cited for having the two kitchens?

MR. KANE: We'll clear that up as we go along and we see it.

MR. KELSON: We made, what happened, the history is and Mr. Babcock in making the application for the variance this was raised and it was requested by the building department that it be brought here just for the record, just for clarification.

MR. BABCOCK: Yes. Since we were coming here for the shed and stuff, we just wanted to get it out of the way so there's no problems in the future.

MR. KANE: That shed, I want to clarify a couple of things, if you can, I wasn't here for the preliminary hearing on this, but does the shed itself extend in front of the existing house and shouldn't that be cleared up right now according to this picture that's right here? And second, the pool filter shed that's 6.7 off the front, shouldn't that be cleared up at this point so that everything on the property is clear?

MR. BABCOCK: Well, Mr. Chairman, if you look at the tax map, there's two lots in Butterhill, the 66.1 lot is actually owned by same owners, but it's on a different lot, so we didn't feel that we said that that was a front yard only to give him the benefit of that, if you'd like, we can modify that.

MR. KANE: I just don't want the gentleman to have to come back here for any reason, you know, spend enough money being here tonight. Just to make sure you know how banks are so and if that shed is extending in the front of the house which it looks like in this particular picture, we should clear that up.

MR. BABCOCK: Yeah, according to my notes it says.

MR. MINUTA: In addition to that, just for clarification this is the frame shed in question?

MR. KELSON: Yes.

MR. MINUTA: That's showing to me according to this survey we have a 1.1 foot setback and a 2.6 foot setback, not a 2 foot setback.

MR. KELSON: No, no, 2 point, it's 1.1 foot on the side lot that shows now or formally Miller and 9.6 foot to the rear, the 2.6 because you'll see the shed is slightly off center, the 2.6 is the other small corner.

MR. MINUTA: And I'm going off of our number 5.

MR. KANE: I think our numbers are wrong.

MR. BABCOCK: I don't have that survey so I think what's--

MR. KANE: We're not, so you don't get uncomfortable, we just want to get it clear and the numbers are right because it isn't the Town that's going to look at it, it's going to be a surveyor and bank because if you're off six inches, you'll be back here so I'd like to get it clean and Butterhill is 12 feet too, isn't it off the property line, not 10?

MR. BABCOCK: Not, well--

MR. KANE: I live there.

MR. BABCOCK: The accessory structure, no, the pool, yes, that's how that actually reads and we have had some debates about that also too so Mr. Chairman, yeah, the pool filter shed is definitely in the front yard.

MR. KANE: We should have caught that at preliminary.

MR. BABCOCK: I assume this is new, this survey's new and we went off and what we did on the shed, the larger shed, we rounded the numbers off when we said that and I think that numbers got put in here wrong, they should be switched.

MR. KANE: We're looking for a 9 foot rear yard setback and a 2 foot side yard setback on the existing shed.

MR. BABCOCK: Right.

MR. KANE: Now we're going to add for the pool shed.

MR. BABCOCK: I think it would be, no, I think it would

be part of the text that says whatever section that code says that it can't be located in the front yard.

MR. KRIEGER: Can't project closer to the road.

MR. BABCOCK: Than the principle building, this does here, see it here, right, so it would be a, does anybody have a code book?

MR. KANE: It would be--

MR. BABCOCK: It's 48-14, I know that, the accessory building, but there's some, it's A, B and C and whatever.

MR. KRIEGER: I've seen that before, accessory building projecting closer.

MR. BABCOCK: It just can't be there, there's no number, it just can't be there.

MR. KANE: So we're going to allow an accessory building to project closer to the road than the principle building and to move that since it's an inground pool that's where the pool filter and mechanics are that would be a financial hardship to move that at this point?

MR. KELSON: Yes, Mr. Chairman, it certainly would. Thank you.

MR. KANE: So you want to add that structure projecting closer to the road separate shed?

MR. MINUTA: Michael, there was a permit for all of this at the point in time when it was actually constructed?

MR. BABCOCK: No, I think there was a permit for a pool, I see in here but there was no--

MR. KANE: Shed is 12 x 12, there's a permit.

MR. BABCOCK: For the inground pool and the house C.O. They're trying to get permits for the rest of the stuff, the two sheds.

MR. KELSON: That's right.

MR. KANE: So what your proposal will be, gentlemen, is a 9 foot rear yard setback for existing shed, two foot side yard setback for existing shed and an allowable accessory structure extending further in the front yard than the front of the house which is the pool shed.

MR. REIS: I think there's one error in the arithmetic.

MR. MINUTA: The frame shed here is showing 1.1 foot setback, 1.1 foot setback.

MR. KANE: So if you had 9, you have 10.

MR. MINUTA: Add 9 to what?

MR. KANE: So the 1.1, he has 1.1, he needs 10, so that would make--

MR. MINUTA: Thank you very much. I'm reading it backwards. Technically, it would be 8.9 but we don't like to cut it close.

MR. BABCOCK: We had all those numbers and we asked him to round it off.

MR. KANE: So we actually have four including the interpretation of the kitchen. Okay, at this point, I'll ask if there's anybody here for, open it up to the public and we have one? Joe, can we get a name on this?

MR. MINUTA: Yes.

MS. WRAY: My name is Susan Wray and I live on 12 Creamery Drive, which is if you make a left off Buttermilk, I'd be the fifth house on the right. I have no problems with the shed or whatever else, my thing was the interpretation of the two kitchens in a single family, I know for a fact there was a full functioning kitchen in that downstairs and the garage was cut off and sealed up as a bedroom. So there's before, right before they bought the home, they were told to to remove it, from what I understand because we didn't want any, the people, the neighbors didn't want it because it could bring in all kind of problems.

MR. KANE: That's why we bring them in here.

MS. WRAY: When it got reported at the time that's when Warren, I didn't know his last name who sold them the house was told to remove it but there was a refrigerator, stove, oven, a sink, everything.

MR. KANE: So you understand we're not against having a second kitchen in your house. When I grew up, you used to have the summer kitchen down in the basement and that shows my age, we're not against that. What we want to do is get on the record that they will not be using that kitchen for any kind of an apartment setup that's down there. And it's also on the same gas and electric meter coming into the house, everything put on the record so somewhere down the line if they're found to have another family living in that house illegally, then appropriate action will be taken at that point. So that's what we have been doing and we get a lot of them so we can clear it up and get it on the record so that they know what the rules are so we're not against second kitchens.

MS. WRAY: Butterhill is very congested to begin with.

MR. KRIEGER: When a prior owner was told to remove it, this will make sure it doesn't get put back.

MR. KELSON: We're going on record saying we're in agreement with you.

MR. KANE: I live in Butterhill, I know.

MS. WRAY: I wanted to make sure it wouldn't be legal to have two kitchens.

MR. KANE: You can put in a second kitchen. When the building inspector goes here, we'll bring you here so we can get it on the record that there's no intent to make it and you're stating it for the record and you're held accountable for it. Okay?

MS. WRAY: Thank you.

MR. KANE: Anybody else? At this point, I'll close the public portion of the hearing. Myra, how many mailings?

MS. MASON: On the 16th day of February, I mailed out 62 addressed envelopes, no responses.

MR. KANE: That's Butterhill. Back to the board. Gentlemen, any further questions?

MR. REIS: Make a motion that we grant the Lamica family their requested variances for setbacks, also that we interpret this as a single family home and also that we're allowing the shed and accessory structure to extend further than the principle dwelling.

MR. KANE: And I'd like to just make an addition that we're interpreting this to be a single family home with two kitchens to be used as a single family home and nothing else.

MR. REIS: I believe they indicated that there's no kitchen, just cabinets.

MR. KANE: It could be but we see the cabinets, it goes.

MR. REIS: Okay.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

MOSHHIL INC. #04-05

Moshhil Freidman appeared before the board for this proposal.

MR. KANE: Request for 3,902 square foot minimum lot area, 25 ft. minimum lot width and 25.6 ft. front yard setback and 4 spaces minimum parking required for retail building with caretaker's apartment all at 1144 Route 94 in an NC zone.

Is there anybody in the audience here for this tonight? Joe, you're up. Same as I said before, we'll ask you to state your name when the public hearing is open, please don't repeat and be to the point. Thank you. Sir, you're on.

MR. FREIDMAN: Yes, my name is Moshhil Freidman, I'm the president of the corporation, Moshhil, Inc. My attorney's supposed to come but he told me that he forgot about this. The last time I forgot to come now he forgot to come.

MR. KANE: Do you feel comfortable doing this tonight by yourself?

MR. MOSHHIL: I hope so.

MR. KANE: We can table it.

MR. MOSHHIL: If I see I have trouble, he called me a few minutes ago that I should call him and if it's something a problem and he will come down.

MR. KANE: If at any point you feel uncomfortable, we'll table it and bring it up another evening.

MR. MOSHHIL: Bring it up after Central Hudson.

MR. BABCOCK: He's saying that he will call his attorney now if you push him back, let Central Hudson

go in front of him. I think he should.

MR. KANE: I'd feel more comfortable with your attorney being here.

MR. BABCOCK: This is a court action, he needs to have a determination tonight because there's a court stipulation, we've got to go back to court if he doesn't, so it would be in everybody's interest if we can just get it done tonight.

MR. KANE: I'd prefer your attorney should be here, he should come. We'll hold the next meeting and put this one off until last.

MR. BABCOCK: Better off.

MR. KANE: Yeah, definitely.

CENTRAL HUDSON GAS & ELECTRIC #04-04

MR. KANE: Request for interpretation and/or variance for expansion of nonconforming use, exceeding 30% for expansion of substation at Union avenue in an R-4 zone.

I will ask if there's anybody from the public for this particular meeting? Seeing none at this point, I will actually open and close the public portion of this hearing as no one's here and ask Myra for the record how many mailings we had.

MS. MASON: On the 16th of February, I mailed out 42 envelopes and had no response.

Lois Phillips, Esq., Mr. Huynh Nguyen and Mr. Stephen Burger appeared before the board for this proposal.

MR. KANE: You're on.

MS. PHILLIPS: Good evening, my name is Lois Phillips, I'm an attorney with Hiscock & Barclay. We're here tonight on behalf of Central Hudson Gas and Electric. With me are representatives from the company, as well as from Chazen Engineering, which is the design engineers for this particular proposal. What I'd like to do is to give first of all to just explain for the benefit of the Chairman who wasn't here in our preliminary hearing a little bit about Central Hudson as a public utility, the difference in a standard for, standards for a public utility property allocation as well as to clarify succinctly what the interpretation we're requesting and/or a variance because it's somewhat of a cascade. If you make an interpretation on the first request that's favorable to Central Hudson then our view is that the determination would be over. If that determination is not favorable to Central Hudson, then we'd go to the second interpretation which is a calculation interpretation. And then the last one is with respect to an area variance, if necessary. Central Hudson Gas and Electric is an electric

corporation which is a public utility under New York Law. As a public utility, it has an absolute obligation and a mandate to deliver adequate electric power, save, adequate electric power. In the Town of New Windsor, it provides that service pursuant to a franchise agreement which was granted in about 1905. Now, the system now that we're concerned about is to provide adequate electric power to the New Windsor Cornwall area. And the way we talk about this for clarification is that if you have an increased demand, it's referred to as the load, what is the load on the system. And if you're trying to meet that load to provide adequate service, we have two concepts, one is reliability and the second is sufficient capacity. So if you have increased load, you want to increase your reliability and you want to increase your capacity. As a public utility, we constitute a unique use in New York, we have a unique relationship to the public welfare and safety of the community. If our electric capacity is not adequate to provide reliable power to the community, then the safety of the community and the general welfare is at risk. Specifically, some examples I can take from last August when there was a power shortage or power outage, without sufficient electricity, you immediately call into question the ability for lighting, adequate lighting, for adequate air conditioning in the summer, adequate heating in the winter. But in addition to that, you also put in jeopardy your emergency services, without adequate and reliable power, you call into question your ability for fire, police, ambulance, hospital, medical and other essential services. Because of this unique relationship and because of the recognized need and relationship to public welfare and safety, New York permits localities to adopt reasonable zoning ordinances governing electric utilities, however, no municipality may nullify or interfere with the utility's rights and duties to maintain sufficient transmission facilities including substations. Therefore, municipalities may regulate but not prohibit

the installation and the expansion of facilities and substations for transmission of electricity when such alterations are necessary to maintain adequate, reliable electric service for the public welfare. As part of its ongoing business, Central Hudson conducts planning studies regularly. In this particular instance, the planning study for this area has determined that additional electric transmission is needed in order to increase reliability of electric service to the New Windsor Cornwall area and to meet the growing need for electric capacity in this area. In other words, we're experiencing an increase in electric load. The Town of New Windsor Code recognizes the unique relationship between electric power and the public safety by defining public utilities of this nature as essential services. Essential services include construction, alteration and direction by public utilities of electric transmission systems, equipment and accessories that are necessary for furnishing adequate service by the utility. It also recognizes the unique relationship, the code recognizes the unique relationship by providing some specific examples within the code. One example that immediately jumps to mind is the noise restrictions in the code are not applicable to the public utilities such as Central Hudson. There is a specific statutory exemption in Section 48-17.5 paragraph 5 subparagraph D. In this particular project, we're proposing to alter an existing substation facility on Union Avenue in the Town of New Windsor. This substation was first constructed in 1954 and 1955. The alteration will propose or will include the addition of three pull boxes, an 880 square foot control house is, one transformer and dead-end structures each. The alteration will provide five additional electric positions which will be available to meet the projected increase load in the area. The parcel consists of 6.9 acres and it is located in an R-4 district. The building inspector has determined that this, the public utility use in this R-4 zone is a prior non-conforming

use and that gets us to Section 48-24. The first interpretation that we're seeking is from the provisions as under Section 48-24, specifically the proposed alterations to this particular substation we believe would be exempt under Section 48-24 paragraph B subparagraph 4. This allows an exemption from the restrictions on the expansion or renovation or alteration of a prior non-conforming use that's in the code. The basis of that interpretation would be that the structural alterations proposed are necessary in the interest of public safety. And again, it goes back to providing adequate, reliable power to meet the increased load. Section 48-24 B 4 provides an exemption as I said which Central Hudson believes applies in this instance. In the event the zoning board determines that Section 48-24 B 4 does not apply to the Central Hudson's proposal, then we're seeking an interpretation under the same code section for the different, but a different paragraph. Under Section 48-24 B 3, your code says that a prior non-conforming use can be expanded up to 30 percent of its ground floor area. Now that's easy to understand if this was simply a commercial building, an office building, for example, or residential home, but this is a substation which has a control building as well as footprints for the construction of the equipment that makes up the substation. In reviewing this, the planning board asked the question of how do we calculate that 30 percent. What are we supposed to take into consideration. So in the event that the zoning board determines that the proposed alterations fit the exemption classification, then we would submit that our next course of action would follow your interpretation would be to go to the planning board. If, however, the exemption does not apply, then we're asking you to interpret the section that sets out the 30 percent limitation and essentially give guidance to the planning board as well as to Central Hudson on how we're going to calculate that gross ground floor area. There are several ways in which that could be

calculated. One would be to look strictly at the ground floor area of the one building on the proposal which would be the control house. Another way would be to look at the concrete slabs, the concrete basis for the substation equipment and calculate it based on those structures or I should say that concrete base, the distinction here is that control house has a foundation, the other concrete pads are merely concrete bases, concrete structures or concrete slabs. The third alternative would be do you add those together, do you consider the foundation with the control house plus the concrete slabs. If in fact after you have rendered your interpretation you decide that a variance would be required because the way this is calculated we exceed the 30 percent limitation and the 30 percent limitation applies then Central

Hudson is seeking a variance to allow the construction of this substation in excess of that 30 percent limitation. I'd like to, I'd also like to emphasize that the standards for a variance, an area variance for a public utility are somewhat different than they are for regular area variance. Principally, the hardship section that the utility is asked to address is different than what you generally see in a zoning situation. Here the hardship is the burden or the hardship should be proved by a demonstration of the need as it relates to public safety of the particular structures or the proposal. So we need to show you what the public necessity is for the alteration of the existing substation. Central Hudson representatives will speak to the need and what the timing here is and as I said, Chazen will then give you a description of what the actual proposal is from an engineering standpoint and a site standpoint.

MR. HGUYEN: I'm the engineer from Central Hudson.

MR. KANE: I think what we should do to save a lot of time is actually the board members have been through this, I understand what you want, I've read up on it is

to take a look at that first interpretation before you even need to proceed any further and take it from there.

MS. PHILLIPS: That would be fine.

MR. KANE: What did you guys think?

MR. REIS: That's fine with me. I have a question though.

MR. KANE: Yes.

MR. REIS: You mentioned Lois that--it is okay if I call you Lois?

MS. PHILLIPS: Yes, please.

MR. REIS: You mentioned that this facility was constructed in '54, '55?

MS. PHILLIPS: The existing portion of it, yes.

MR. REIS: Right, has there been any add-ons, additions, modifications since that time?

MR. HGUYEN: We do have improvement over the years to provide the reliable service to this area.

MR. KRIEGER: Does that improvement involve expanding the area which it's done or just improvements within the structure, within the set-up?

MR. KANE: As you speak, just give your name.

MR. THOMAS: Bob Thomas, I'm the real estate section of Central Hudson. There's been no improvements outside of the footprint, there's been improvements within the substation.

MR. REIS: That's my question. I have to commend Central Hudson better part of the 50 years and it's served our community quite well, I think that's a good idea.

MR. KANE: Got to say it you want to see my gas bill? Joe, any questions?

MR. MINUTA: I was not part of the initial--

MR. KANE: You and I were out with knees that night.

MR. MINUTA: Yes, there are questions here that--

MR. KANE: Well, the first question that starts do you believe 48-24 4 applies or does not apply to them as an essential service?

MR. MINUTA: Well, they're exempt.

MR. KANE: Any other questions are moot until we answer that.

MR. MINUTA: Within that, yes, there is an exemption that's allowed by law, I believe that's Federal Law, correct?

MS. PHILLIPS: Well--

MR. KRIEGER: Well, their argument is it's specifically that it is allowed under the code of the Town, the way they have defined it as an expansion of a pre-existing non-conforming use, their argument is that it is a pre-existing, non-conforming use and it's entitled to be expanded and the 30 percent limitation that would apply to others does not apply to them because of their special standing as a public utility.

MR. KANE: So that's the first thing so--

MS. PHILLIPS: Yes, thank you.

MR. MINUTA: I'm satisfied with that portion.

MR. KANE: See that we answer first and if that gets turned down, then we can go to the next stage and they would continue their presentation, we'd go to the second interpretation and then any variances so we have to answer that first, we decide if they can, planning board decides how they can.

MR. MINUTA: The trouble I'm having I need more information on this project, in particular.

MR. KANE: On the interpretation itself? See, we don't get to the project unless you get passed the intersection, so if you don't feel the interpretation, if you feel it applies, then your question is--

MR. BABCOCK: Do you want to see a plan?

MR. MINUTA: I have the plan.

MR. KANE: I know we all have other private concerns but our job is to decide whether this section of the law applies to them or doesn't apply, that's the first question that we have to answer.

MR. RIVERA: It does.

MR. KANE: Do you feel comfortable making a decision?

MR. RIVERA: Yes.

MR. KANE: That's our first step, so little things that we have that we'd like to ask don't really come up at this point.

MR. MINUTA: You couldn't have reversed that, huh?

MR. KRIEGER: No, no, you have stated it correctly, if you decide that the interpretation that the 30 percent limitation doesn't apply, then it doesn't apply and that's the end of their application.

MR. KANE: That's one of the catch 22s of the job.

MR. REIS: Can I ask a question?

MR. KANE: Sure.

MR. REIS: In due respect to those issues, I'm sure your engineers and all of the people that come up with the decision to expand this and what you're about to present to the board is this the minimum expansion that you can provide us with to get the maximum future benefit?

MR. KRIEGER: It's the minimum of what you need.

MR. BURGER: I'd like to just speak to this for a second and my name is Steve Burger, I'm the Customer Service Manager with responsibility for operations and construction of our gas and electric system at Central Hudson. What we have done is we have defined a footprint and what we need to do to serve the residents and the businesses of the New Windsor community and the Town of New Windsor going into the future. You have asked very, we looked at the absolute minimum of what we need to do and the answer is yes.

MR. REIS: Thank you.

MR. BURGER: Long way around but I want to make sure that you do understand that right now and I know this is kind of jumping ahead a little bit but where we are right now is we're approaching a hundred percent of current carrying capacity to serve the residents and the businesses in here in the Town of New Windsor.

MR. MINUTA: What's your projection for in the future, is this enough capacity to last you 10, 20, 30, 40 years?

MR. BURGER: Based on load growth, we're seeing load growth of about 2 1/2 to 3 1/2 percent annually, this past summer we were at 97 percent of the capacity of the Union Avenue substation this summer we expect to be at 100 percent capacity sooner or later, if we don't do something to bring added, additional capacity into the Town of New Windsor, Town of Cornwall, we're going to be extremely limited as to who can build here.

MR. KRIEGER: I think the question was if the expansion as you proposed is permitted, how many years do you project that will last you? The first bite lasted you 50 years, how many more years?

MR. BURGER: You can't look at the economy and say that we're going to continue to have this robust growth for the next 10 or 15 years. I can give you some history right now, the last five years has been a 2 1/2 to 3 1/2 load growth in the Town of New Windsor.

MR. MINUTA: Based on 2 1/2 to 3 1/2 percent this facility will allow you how much more?

MR. HGUYEN: I would like to say this is 10 to 20 year depending on load growth in this area is not fixed because we don't have that.

MR. KRIEGER: That's your answer, 10 to 20 years.

MR. KANE: Let me ask this. With the expansion that you're proposing now on the piece of property that you have now, how much further do you think that you can build on that property before that becomes maxed out? Follow where I'm going?

MR. BURGER: Yes, I do, yes, inside the new expansion

project, what we're looking at right there is--

MR. HGUYEN: For now, we build it if we're allowed to build this station, I mean this is maximum land available, this is maximum land we have available to provide within 10 or 20 years now and after that, I don't think we have enough land to put more equipment on.

MR. KANE: Without some kind of scientific, you know, technical thing, thank you, okay, that's what I wanted to ask.

MR. MINUTA: How much property is currently owned and how much is currently occupied?

MS. PHILLIPS: We have 6.9 acres total that's occupied.

MR. THOMAS: Probably about 2.46, 2.76, I believe.

MS. PHILLIPS: In a vacuum you might say well, that looks like you would have additional property to expand but there are wetlands on the area, other site constraints.

MR. MINUTA: Of course with that in mind, then I think what happens with this particular site in my mind is that we have the existing, what we have is existing what they plan on proposing as future and if we grant complete evidence on this project that allows them 100, potentially 100 percent usage of the property should they deem fit if there's an exemption, would that not be correct?

MR. KRIEGER: That's correct.

MR. MINUTA: So in that case, I don't feel comfortable granting 100 percent exemption on the entire property at this point.

MR. BABCOCK: I think Joe that--

MR. HABER: Gary Haber from Chazen Companies. Maybe I can clarify this a little bit. On the site plan, the portion with the existing substation or the expansion to the existing substation was going to take up is correct me if I'm wrong is 1.42 acres, the entire 6.9 acre parcel that you have in your submission is the inclusion of 3 deed parcels that Central Hudson owns that you have deemed to be one parcel on your tax maps and that includes the footprint of the existing substation, the parcel for the alteration and very long transmission strip that's already occupied by transmission facilities. So basically your question of 100 percent usage this strip across the back is already filled with transmission line is not changing, this portion here is already filled with the existing portion of the substation so this is the only piece that's left to develop.

MS. PHILLIPS: Let me show you the map here. The footprint or I should say the fence line, it's not as if this entire section here is you blacktopped or covered with an impervious surface. This is the fence line and these are the, this is the area of the existing, right, the expansion or the alteration area will be over here and it has to connect, it has to be a connection between the two. This green space will continue to stay here. There will be hedges and trees continue across the front and then the remainder of all this, what we're saying is the site constraints are such that you wouldn't come in here and say well, now I need an expansion, I need a bigger substation or a third one so it's not that we're saying the exemption applies to the entire parcel or I should say such that you'd be developing the entire parcel, you simply can't do that. What we're saying is that the alteration in the front is exempt under your code because it's an essential service and these alterations are needed for the interest of public safety.

MR. MINUTA: So let me understand this correctly then, just Parcel A is under scrutiny at this point?

MS. PHILLIPS: Well, no, it's all one lot, it's just the front end of it is what we're talking about here.

MR. MINUTA: I guess potentially what I see with this if 100 percent exemption is granted at this point, there's nothing that with allow basically if you're granted the exemption, you can do whatever you want whenever you want at whatever time, would that be correct?

MR. KRIEGER: Yes, with this caveat, understand that those portions of the property that are designated as wetlands, this board has no legal power to grant them any exemption from that, so they remain, unless the DEC decides differently, it's a completely different application that they would have to make, they can't come here for that, that remains the wetlands as far as that's concerned.

MR. KANE: And we can grant an interpretation that on this particular lot at this particular time?

MR. KRIEGER: Yes, as a matter of fact, your interpretation should be--

MR. KANE: This particular lot application at this time.

MR. KRIEGER: This application, this lot.

MR. BABCOCK: Why wouldn't you say per this plan?

MR. KANE: What's that? Per this plan, exactly.

MR. BABCOCK: Plan submitted to us. If we're going to more than what's on this plan, they would have to come

back.

MR. REIS: Twenty years if they have to do it again, they'll do it again.

MS. PHILLIPS: Correct.

MR. KANE: And whatever changes in the last 25 years. Feel more comfortable?

MR. MINUTA: I feel much more comfortable with that.

MR. KANE: All in how you state the interpretation and bring it into that and refer to this plan only.

MR. MINUTA: Now I understand. I have to ask the question noise from the facility, are we looking at noise from the facility?

MR. BURGER: No.

MR. KANE: Can't touch it.

MR. KRIEGER: That was offered as being an illustration only, this board is without the jurisdiction to affect the noise requirement.

MR. MINUTA: Thank you for answering that question anyway. Other than that, I'm satisfied.

MR. KANE: Mike?

MR. REIS: I am.

MR. RIVERA: Yes.

MR. KANE: I'll take a motion.

MR. MINUTA: Mr. Chairman, accept a motion?

MR. KANE: Yes, I will.

MR. MINUTA: Make a motion that we grant Central Hudson's request for interpretation for exemption classification. I don't have the number.

MR. BABCOCK: 48-24 B 3.

MR. MINUTA: Thank you, for the expansion of substation at Union Avenue in an R-4 zone.

MR. REIS: Per existing plan.

MS. PHILLIPS: Per existing plan.

MR. MINUTA: Per the plan that has been submitted.

MR. REIS: Second it.

MS. PHILLIPS: Before you move the exemption provision is pursuant to 48-24 B 4 which will allow you an exemption from the requirements or the restrictions of B 3.

MR. MINUTA: So let's restate this then. Make a motion that we grant Central Hudson's request for interpretation based on the plan submitted for the exempts number 48-24 B 4 for the expansion of substation at Union Avenue in an R-4 zone.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

MOSHHIL, INC. #04-05

Benjamin Ostrer, Esq. and Moshhil Freidman appeared before the board for this proposal.

MR. KANE: Request for 3,902 square foot minimum lot area, 25 ft. minimum lot width and 25.6 ft. front yard setback and 4 spaces minimum parking required for retail building with caretaker's apartment all at 1144 Route 94 in an NC zone. You're on.

MR. OSTRER: I'm Ben Ostrer. Essentially, this is to replace I believe as you heard last month the building that was removed the footprint is a comparable footprint to the building that originally improved the property. There's no use variance, well the parking is the pre-existing parking but the uses to be employed in the reconstructed building will be only those that are permitted in the zone. As the board may be aware there was a conditional settlement of some litigation relating to the removal of the building by the Town that's dependent upon Moshhil securing a variance from this board to rebuild in the old building envelope so that's why we're here at the zoning board because we cannot go for site plan, perhaps had we talked to Mr. Crotty before we placed the stipulation before Judge Byrne, the choreography might have been different but as we placed it on the record in Supreme Court, we were, we are seeking the variances for the property before we went to the planning board. And that's why we're before you today so it is an irregularly shaped parcel that had been previously improved by a structure.

MR. KANE: Okay, first issue you have a proposed building right on here and you show on 94, 4 foot, sorry, glasses aren't that good but either 2 or 7 inch square and an 8 foot and 4.8, those 4 little, 3 little squares down on that proposal, they were part of the original house because our pictures do not show that.

MR. OSTRER: These pictures are after the building was removed. Prior to the Town removal of the building, there had been a derelict portion of the building that the Town had required to be removed but there was some enforcement proceedings to remedy littering on the lot and hazardous building and it was during that process that the Town proceeded with the condemnation and took the rest of the building down. So it is the original footprint which you don't, the piece of the building that would stand forward of this there it was a wood frame section that was in front of that that formed the rest of the footprint that's not visible.

MR. KANE: In the preliminary hearing, I had asked about that 4 foot 7 portion that only leaves us 4 foot 4 inches from Route 94, if that was possible to lose that. That will at least give us an 8 foot view for the traffic coming through that would be my, that's my main concern at this point, we're all dealing with restrictions here so--

MR. OSTRER: No, if that's something that the, I guess we'd be lessening the non-conformity by rescinding those additional 4 feet 7 inches, we'll do that.

MR. KANE: In my point of view, this is a lot for traffic going down the road, the safety is where I'm concerned.

MR. OSTRER: We would modify the application to delete the 4.7 feet.

MR. KANE: Okay, I think what we'll do at this point, gentlemen, if you guys are all right, I want to open it up to the public, I don't want to keep these gentlemen up any later than they have to be. At this point, we'll open it up to the public. You gentlemen already filed out the sheets, please come up, state your name and what you have to say.

MR. HOPKINS: My name is George Hopkins, I live at 1156 Route 94. I'm just above the proposed property. You addressed the problem of pulling out on 94, that was one of my questions because they just remodeled 94 and you got the Cornwall school up there and there's a lot more traffic than years ago and that was my concern. I, like I say, I pull out of my own driveway and it takes me, you know, at 9 o'clock in the morning takes me about ten minutes just to pull out of the driveway safely now, I'm worrying about you've only got four parking spots, I don't know what they're going to put in that particular place.

MR. KANE: Right now, they're looking to put a retail store on the bottom with a caretaker apartment on the top. Now you guys also understand everything that's going on with this. All right? No? It will probably make a lot more sense, would you explain what happened?

MR. OSTRER: Yes, if you're a neighbor, you know that the building was in pretty rough shape.

MR. HOPKINS: The Town did the right thing.

MR. OSTRER: What had happened at the time I'm sure the Town believes it did the right thing but the building inspector issued violations and appearance tickets in the local justice court and while certain remedies had been undertaken, proper notice wasn't given to the property owner that the building was being torn down while he was appearing in front of the justices in the local justice court, so rather than pursue the claims against the Town for perhaps wrongfully demolishing the building, we have agreed with the Town so that there would be no future taxpayer expense that if we could rebuild in the footprint a new building which would certainly not have the, wouldn't be the eyesore that was there before that that would end litigation without cost to the Town and would also eliminate any potential

claim because the value of the property has been restored basically by demolishing the building. Given the odd shape of the building and the current setbacks and the zoning, the property would be unbuildable without the variances. So this was a suggestion that of Mr. Goldman who's special counsel to the Town on the matter we thought that it made sense but we needed to have a public hearing so that the neighbors know that we're not, that it's going to be a brand new structure that's code compliant and actually it will be a little bit smaller than the old footprint.

MR. KANE: Am I also, if I remember this correctly, this has also changed hands since this is a new one of the--

MR. OSTRER: There's one of the persons that had been more problematic who's no longer in the property with Mr. Freidman so we have, we're hoping that it will be a nicely paved lot with a, whether it's some sort of retail walk-in office, you know, professional, something of that sort, it may be with the spaces, you're not going to get a mercantile but you may get a walk-in type professional office.

MR. HOPKINS: I'm just worrying, I'm trying to say as you go down the road to the deli and the store there that was approved years ago and it's not enough parking.

MR. KANE: Our options here become they're in front of our board that we cannot see their way and not render any control on how that building is built and have it go back to court where the orders are probably they'll be able to build it on the same footprint anyway without any input from us and just to give you all the facts so you guys can make an informed judgment.

MR. HOPKINS: I'd like to see something there, there was something there and I'm glad--

MR. KANE: When we look at that, there's a little extension that came out only 4 foot from the roadway, they're willing to give that up to make an 8 to 9 foot vision for the vehicles which hopefully will improve not as much as I like but the only thing we can do without going into the main building.

MR. BABCOCK: Mr. Chairman, one thing also if the applicant's successful at the board, he will be required by me to go back for site plan approval at the planning board which they'll look at the entrance and so on and so forth.

MR. KANE: They'll look at all that, too.

MR. HOPKINS: No, at that same planning board, are they looking into the drainage problem that's there too?

MR. BABCOCK: Yes, they will.

MR. KANE: They'll look into everything, that's their job.

MR. HOPKINS: I have been there for over 30 years, even with the new improvements on 94, there's a puddle that sits right in their property.

MR. KANE: Basically, we in the zoning board decide if they can do it, the planning board decides how, okay, and, sir, did you have any questions?

MR. MAYER: Yeah, I guess my one question was I'm a little bit more than, I'm just getting this letter so these are all dimensions that are going to be physically the distance is only going to be four or five feet from the one house? You're saying a variance is actually going to be physically going to be 50 feet between or between buildings and the property?

MR. BABCOCK: In the rear to the railroad tracks it's going to be 4 foot 6 off the property line and from the back, 5 foot side yard means there's only 5 feet between the property line.

MR. KANE: No, they're requesting a 5 foot.

MR. BABCOCK: They're required to have 15, they're proposing to have 10, so they need a variance of 5, so they're going to be 10 foot off the back property line.

MR. KANE: And that's what they're looking to get.

MR. MAYER: So it's actually going to be 5 feet between?

MR. OSTRER: Instead of 15.

MR. MAYER: Richard Mayer, I live at 1113 Route 94, I live maybe two or three properties down the road from this.

MR. KANE: Thank you, sir.

MR. MAYER: My concern is there was nobody there when I moved into the house, I haven't been in there that long and there's been a school built down the road, there's been quite a few houses built on 94 and there's a lot more traffic and I'm constantly sweeping glass from the front of my house because opposite me there's a store area and everybody's stopping to make a left-hand turn. And I'm sure it's going to be the same thing there. And I see it as a safety thing that somebody's got to look into it with the traffic and the volume and whether the people are going to be getting hit or children who are off the school bus right in front of that area there, what's the, is there anybody looking at that?

MR. BABCOCK: Yeah, I would assume and I don't know

this for a fact but I would assume that the planning board, the planning board definitely is going to be looking at it and our engineer is going to look at it and possibly DOT.

MR. KRIEGER: Yes, I would agree with that.

MR. BABCOCK: So the planning board should forward it to the DOT, I'm not going to say they are but that's normally the procedure.

MR. KRIEGER: Whether the planning board does now or not, they'll have to get DOT approval for any state entrance because it's a state highway.

MR. BABCOCK: Right.

MR. OSTRER: I believe there's a curb cut but we would reconfirm that in the planning process.

MR. KRIEGER: For the purposes of answering that question, I'm not intending to limit the applicant as to how you get this or what specific procedures you go through, just indicating for this gentleman's information there is a procedure, somehow DOT has to look at it and say yes, it's okay and no, it's not okay. The procedures for their doing it may vary but the bottom line is they'll have to do something.

MR. MAYER: Where does that come into it before the building is built?

MR. KRIEGER: Now he has two boards to see here and until he gets this being the first assuming that he receives a positive vote here, then he goes to the planning board, he has to go through the planning board procedure which typically is at a minimum of months and they look at all those questions that have been brought up.

MR. MAYER: Is this going to be a question that's going to be raised and put into that review?

MR. KRIEGER: Yes, you understand if he receives an approval here, it says that he can build it, says that he can build something there, that's all it says. And the planning board is going to say what this something is, where you're going to have the entrance, how you're going to have to grade it, how you're going to have to take care of the drainage, how are you going to do all these things. And it's all well and good that you're allowed to build something on this property no bigger than this but how are you going to accomplish all those things and they're going to have to show that one of the things that they're going to have to show is entrance and exit, egress and ingress on and off the property because that's bordering a state highway, that's why the DOT becomes involved. They have get to say yeah, they get to look at it, that's just one of the questions. Before he actually builds something, he has to get a site plan approval from the planning board which means he has to go all the way through the planning board process, nothing gets built on the property until he gets that approval, he needs both the approval of this board and the approval of that board and the DOT, he has to have all that done before he actually gets to put his shovel in the ground.

MR. BABCOCK: There's two things also is all the minutes from this meeting gets forwarded to the planning board and since there's a caretaker's apartment in the building, the planning board will be under special permit, require them to have a public hearing there so you'll be notified when the planning board is looking at it.

MR. HOPKINS: Will we be notified?

MR. BABCOCK: Yes.

MR. MAYER: Is there any variance on height because I'm looking at that and I don't know how high the other building was but it's the square footage is maybe like a 10 x 10 building, something like that.

MR. BABCOCK: No, he's allowed to go 35 feet and that's what he's proposing.

MR. KANE: But you have a better understanding of what's going on with that piece of property cause honestly if there was nothing on that piece of property in preliminary meeting, we probably would have told them they were wasting their time.

MR. MAYER: When we saw all the variances, is this being allowed as a new structure going on?

MR. KANE: We also get a lot of other properties that are in Town that come in and they finally clean up they're old existing things and we get things on the record but they're pre-existing buildings, you see a lot of them in New Windsor. But we try to get everything straightened up in the records on that so--

MR. OSTRER: There's an old curb cut that was the access to the property when the old building was there that if the DOT requires some reconfiguration of it because of the drainage that they have put into 94 or they want the contour of the property to send the drainage back towards the railroad track instead of towards the highway, those are things that will have to be resolved through the building department and through the planning board, so it's not that we leave here and we're going to the building department to get the building permit.

MR. MAYER: My point coming down here first I didn't understand this. The second thing I live right on 94 and I get woken up all the time with cars hitting each other in front of my house, so from a safety point just

it's just adding on to that road that coming down a hill with more and more traffic than it ever was.

MR. KANE: Thank you very much for your input tonight and at this point, we'll close the public hearing and ask Myra how many mailings we had.

MS. MASON: On the 19th of February, I mailed 32 addressed envelopes and I had no responses.

MR. KANE: Mike, on the requested variances do we need to make a change with taking off that little kick-out there?

MR. BABCOCK: Yes, it would reduce the front yard requirement, we would, I don't know if the angle is the same, Mr. Chairman, so I don't, I would say 8 feet, I would change it to 8 foot is what they're going to provide instead of 8 foot 4 because it's measured on an angle, so it's probably shorter than that, that's 4 foot but that's 4 foot this way, not this way, so it would be a request of 32 feet instead of 35 foot 6.

MR. MINUTA: Mr. Chairman, looking at what we have presented to us this evening, we're looking at really what we're looking at is what's the buildable lot area. They had an existing building, there are obviously issues as far as egress and ingress to the property and visuals from that, and I'm wondering if putting the cart before the horse with the footprint of the building just because the building was there initially doesn't mean it's the appropriate footprint for this particular site. It may be more beneficial to propose a building with a different footprint located on the property with certain constraints that would allow them essentially the same buildable area and potentially take care of some issues such as parking, may provide you with more parking, may provide you with other things that we didn't see earlier. Now I don't know how we go about that during this proceeding but those

are my thoughts on this.

MR. KANE: Do you understand what he's saying?

MR. OSTRER: Our difficulty is that as a means of resolving the litigation that was going on between the Town and the property owner, if we, in the planning process, the planning board they reconfigure us and the variance and it's within the variances that you have granted then we can finish at the planning board to their satisfaction and we can get our building permit. If it turns out that they're insistent upon us coming back to you for a further variance and it's something we're willing to do cause it's not gonna further compromise the size of our use at the property, it is conceivable that we'd have to come back to you for a further variance, but given the constraints of the property, it was agreed with Mr. Goldman representing the Town that we would come here to get the variances first. If there was something at the planning board that made sense and it required us to come back here, we understand that we might have to come back but we needed to have something in hand to go to the planning board because planning this site there would be as many people as there are in the board there would be that many opinions and Andy's I think being very generous in saying months I mean without coming to the planning board with variances for the side yards and the like, we would, it would be forever and a day before we would get into a plan that they'd say we like this plan, go now to the zoning board and get your variances. Nobody can like a plan for a pie shaped lot where we're going to go so that's why we're here for these variances. We have agreed to shrink that one, after the building department and the planning board see it, maybe we can squeeze another parking space, maybe our use is going to be limited because we're going to need that for a dry well or we don't know what other structure once we find what the drainage problems are but we really need the variances to go to the planning board and end the

litigation. And it seemed to be a good deal to both of us, we knew we might have to make two passes here but we wanted to at least go to the planning board knowing that we can rebuild. Well, now it will be somewhat smaller than the old footprint, they tell us they want us to spin it or slide it over, but we have the block where it's going to go.

MR. MINUTA: So in respect to that we're looking for a buildable area of the building so yes, we have setbacks and requirements of those items but really what we're looking for is how big can this building be, what's the footprint?

MR. OSTRER: Footprint is the old footprint less the four foot we just gave back because that's what the Town took down.

MR. MINUTA: As a proposition if the size of the footprint is granted and that building is allowed to be moved throughout the lot for the most appropriate location, in other words, there's a litigious aspect that you need to resolve, there's a zoning aspect that we need to resolve and we can come to terms on both of those items I think.

MR. REIS: With some specific language.

MR. OSTRER: If you were to grant us variances no greater than those that applied for, we would, if we slid this around, we'd still have to know that we're going to have to have at least 32 feet in the front yard, we can slid along an area that's 32 feet. Now if the building inspector sent us back here we're on the same page.

MR. KRIEGER: If the planning board makes changes to the configuration of the building, they have to come back here and they know they have to come back here.

MR. OSTRER: We're hopeful we're going to put it in the old location, we think that's the less controversial, we can, we can manage the drainage, we believe given the railroad behind us and capture whatever we need, we think we can satisfy the planning board, we think every time we move it moving it one way creates other problems.

MR. KRIEGER: So I'm not saying that you will or you won't, cause obviously, they don't want to come back to the zoning board.

MR. OSTRER: If we're at the planning board if something happens at the planning board where after the engineers get a look at our hard drawings and say roof drains are going to have to go in another direction or you need to do something else we're obviously going to do that, we want to have a building that works also, we don't want to have a parking lot that's iced over in the winter cause it doesn't drain so we want the property to work, we want to have a decent building that the tenants can pay their rent but without something here we can never get passed the talking stage at the planning board because the confines of the lot, the planning board has to know we're actually rebuilding the old footprint, they want us to slide it, we're more than happy to slide it if they're more experienced than us if they say it's going to work better to have an extra space on the other side.

MR. KRIEGER: The practice of the planning board they'd send, if they went to the planning board first, the planning board would just send it back here for a variance first, they take one look and say it needs variances, go get out of here and go to the zoning board so they're just saving the one appearance out of many.

MR. MINUTA: Now, should we grant this and it comes to bear that there isn't enough sight distance.

MR. KANE: The planning board then will have their say as far as sight distance and if they need to do something else, then they come back, that doesn't meet the setbacks that they may or may not get today, then they have to come back here again.

MR. MINUTA: If we grant the variance for the setback and let's say it's too close to the road but the sight distance that they receive at the planning board stage says it's too close to the road that would be more stringent, would they have to come back to us?

MR. KRIEGER: Yes, cause now they'd be looking for a greater variance.

MR. MINUTA: No lesser variance.

MR. OSTRER: If we push the building back, we'd have a greater variance in the rear and less in the front.

MR. KRIEGER: They wouldn't need a greater variance there. What happens they need a greater variance someplace else.

MR. OSTRER: If that's what the planning board decided they wanted us to have because of the railroad line back there, they want us then zero lot line and grab another few feet in the front.

MR. KANE: They'd be back for that here, there's really no place to move the building without another one, we go with it, let the planning board do it, if that's what you guys vote on. Any other questions?

MR. REIS: Accept a motion?

MR. KANE: That I will.

MR. REIS: I make a motion, first of all, I want to

just for the record I have had dealings with Moshhil Inc. and his company Moshhil Freidman and his company but that will not affect my ability to vote on this.

MR KANE: Thank you for bringing that up.

MR. REIS: Make a motion that we grant Moshhil Inc. their requested variances for the location at 1144 Route 94.

MR. KANE: That would include a 3,902 square foot minimum lot area.

MR. REIS: Twenty-five foot lot minimum. Are we changing the front yard setback--32.0 foot front yard setback, four spaces minimum parking required, five foot side yard setback 10.4 foot rear yard setback and 4 percent floor area ratio and we did the four spaces.

MR. RIVERA: Is that with the caretaker's apartment?

MR. REIS: That's a retail building and caretaker's apartment.

MR. RIVERA: I second it.

MR. OSTRER: Caretaker's apartment would require special use permit, we may get to the planning board and they may say we prefer office space upstairs so the use will be a compliant use, if you need a special use permit, we'll do it at the planning board. It may be that they're going to say put an office upstairs instead of a residence, we're going to work with the planning board and the building inspector on that.

MR. RIVERA: Second it.

ROLL CALL

MR. RIVERA AYE

March 8, 2004

92

MR. MINUTA

AYE

MR. KANE

AYE

MR. REIS

AYE

FORMAL DECISIONS

03-47 4 ACRES LLC
30-61 NORTH PLAN DEVELOPMENT CO., LLC
03-62 SARNA ENTERPRISES
03-60 STEVE LONGO
04-01 NICHOLAS RONSINI, JR.
03-59 ANDREW COFFEY
03-56 ELLEN & JOHN ANTONELLI
03-57 CLARA ZGRODEK
03-54 UNITARIAN SOCIETY OF O.C.
03-53 MARK GOULET
03-55 JILL TURNER (BROWN)
03-49 THOMAS GAYTON
03-48 CHARLES BECHLE
03-51 PETER DALY
03-50 ROBERT VASTA
03-52 CELLULAR ONE
03-44 LAWRENCE REISS

MR. KANE: We have formal decisions to vote on. Would you prefer to take them in bulk?

MR. MINUTA: Yes, Mr. Chairman. Make a motion that we take all formal decisions and vote on them in bulk.

MR. REIS: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

MR. REIS: Motion to adjourn.

March 8, 2004

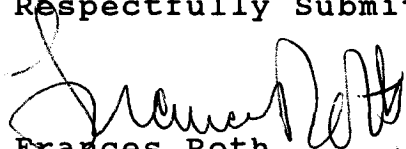
94

MR. MINUTA: Second it.

ROLL CALL

MR. RIVERA	AYE
MR. MINUTA	AYE
MR. KANE	AYE
MR. REIS	AYE

Respectfully Submitted By:


Frances Roth
Stenographer

3/31/04